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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,774	01/24/2002	William R. Holmberg	1416.35US01	4594
22865	7590	06/10/2004	EXAMINER	
ALTERA LAW GROUP, LLC 6500 CITY WEST PARKWAY SUITE 100 MINNEAPOLIS, MN 55344-7704			SWEET, THOMAS	
			ART UNIT	PAPER NUMBER
			3738	

DATE MAILED: 06/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/056,774

Applicant(s)

HOLMBERG ET AL.

Examiner

Thomas J Sweet

Art Unit

3738

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 05 May 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____



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Continuation of 5. does NOT place the application in condition for allowance because:

In the broadest reasonable interpretation of the claims the prior art of record meet the claims as rejected:

With regard to arguments on pages 3-4 and 6-7 corresponding to claim 1:

-Duran's conduit has an expanded section (48) as can be seen in figure 11, which is larger than the cylindrical section (28) and hence expanded.

-Duran has a single generally cylindrical section (i.e. one on each side of the expanded section).

-Duran's reinforcement element is positioned at the junction (i.e. transition) between one of the generally cylindrical sections and the expanded section.

With regard to arguments on page 4 corresponding to claim 39:

-Though Duran's reinforcement element spans the expanded section, a section of the reinforcement element is circumferentially positioned at the junction (i.e. transition) between the generally cylindrical section and the expanded section and therefore meets the claim language.

With regard to arguments on pages 4-6 corresponding to claim 42:

- Klostermeyer does clearly anticipate claim 42 as seen in figure 3. A prosthesis (fig. 3) comprising a first prosthetic conduit section (18) and a second integral (i.e. connected) prosthetic conduit section (20) wherein the inflow edge of the first prosthetic conduit section is configured for attachment to the outflow edge of the second prosthetic conduit section (the so call "cone shaped" section down to the section as 34), the first prosthetic conduit section having a generally cylindrical section (despite the corrugations it is generally cylindrical) and the second prosthetic conduit section comprising a prosthetic valve(22).

With regard to arguments on page 6 corresponding to claim 48:

- Fogarty does clearly anticipate claim 48 as seen in figure 3. A prosthesis (fig. 3) comprising a reinforcement element (62, stent) and a prosthetic conduit (64) comprising biocompatible material, wherein the reinforcement element is circumferentially attached (at 74) to the prosthetic conduit proximate to the outflow edge (also at 74)..